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CLERK US BANKRUPTCY COURT
DISTRICT OF OREGON

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Attorneys for Friends of Regis High School and Regis High School Foundation

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, d/b/a the ARCHDIOCESE OF
PORTLAND IN OREGON,

Debtor.

Case No. 04-37154-elp11

TORT CLAIMANTS COMMITTEE,

Plaintiff,

v.

ROMAN CATHOLIC ARCHBISHOP
OF PORTLAND IN OREGON, AND
SUCCESSORS, A CORPORATION
SOLE, dba the ARCHDIOCESE OF
PORTLAND IN OREGON, et al.,

Defendants.

Adv. Pro. No. 04-03292-elp

**RESPONSE OF FRIENDS OF REGIS
HIGH SCHOOL AND REGIS HIGH
SCHOOL FOUNDATION TO TORT
CLAIMANTS COMMITTEE'S
CONCISE STATEMENT OF
MATERIAL FACTS IN SUPPORT OF
THIRD MOTION FOR PARTIAL
SUMMARY JUDGMENT**



Friends of Regis High School and Regis High School Foundation respond as follows to the Tort Claimants Committee's Concise Statement of Material Facts in Support of Third Motion for Partial Summary Judgment:

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Response to the Moving Party's Concise Statement

1. Accepted.

2. Accepted.

3. Accepted.

4. Accepted.

5. Accepted.

6. Accepted.

7. Accepted.

8. Accepted, except that the real property on which Regis High School is located is not owned by the school; it is held in trust for present and prospective students and parents of students who desire the benefits of a Catholic high school education in the Santiam region.

9. Accepted, but not material.

10. This statement does not relate to the Regis property, so no response is required.

11. This statement does not relate to the Regis property, so no response is required.

12. Disputed. The Preliminary Title Report for the Regis property contains exceptions as follows:

2.a. Easements, liens, encumbrances, interests or claims thereof which are not shown by the public records;

b. Any facts, rights, interests or claims which are not shown by the public record but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.

The equitable interest in the Regis property could have been ascertained through such an inspection and/or inquiry. In addition, the deed records for the Regis property give inquiry notice of the equitable interest. (Summers, Ex. 4 – deed from Catholic Educational Corporation;

Chisholm, Ex. 22, p. 8 – recorded Memorandum of Agreement Affecting Real Property showing Regis High School as the Borrower under an Energy Services Agreement.)

13. Disputed. The Debtor holds only legal title to the Regis property. The Regis property is held in trust for present and prospective students and parents of students who desire the benefits of a Catholic high school education in the Santiam region. (Saalfeld, Campbell, Christiansen, Coleman, Bochsler, Lulay, Schumacher, Heuberger and Summers Declarations, and supporting Exhibits 1-36; Forbes Declaration, Exhibit 13.)

14. This statement does not relate to the Regis property, so no response is required.

15. Disputed. This statement is not a statement of material fact.

16. Disputed. The Debtor, as record title holder, has executed deeds for interests in portions of the Test Properties, but disputed that the Debtor has done so “routinely,” or without regard to the equitable interests in the properties. (Wilson Declaration.)

17. Accepted that the Regis property is being used as a Catholic school. Otherwise, this statement does not relate to the Regis property, so no response is required.

Material Facts Which Are at Issue, or Are Otherwise Necessary for the Court to Determine the Motion for Summary Judgment

18. Whether the Regis property is held in charitable trust. (Saalfeld, Campbell, Christiansen, Coleman, Bochsler, Lulay, Schumacher, Heuberger and Summers Declarations, and supporting Exhibits 1--36; Forbes Declaration, Exhibit 13.)

19. Whether the grantor of the Regis property manifested an intention that the property would be used for a specific charitable purpose – to establish and maintain a Catholic high school to serve the needs of the Santiam region – at or prior to the time that the Regis property was conveyed to the Archdiocese. (*Id.*)

20. Alternatively, whether the Regis property is held in resulting trust. (*Id.*)


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21. Whether the surrounding circumstances show that a trust was intended by the grantor of the Regis property, or that a trust would have been intended by the grantor of the Regis property if the grantor had thought about it. (*Id.*)

22. Whether a BFP would have been on inquiry notice of the trust interest in the Regis property. (Saalfeld, Campbell, Christiansen, Bochsler, Lulay, Schumacher, Coleman, Heuberger, and Summers Declarations, and supporting Exhibits 1-36; Forbes Declaration, Exhibit 13; Bachman Declaration, Exhibit 1; Chisholm Declaration, Exhibit 22, p. 8.)

DATED: October 19, 2005.

BALL JANIK LLP

By: 
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and Regis High School Foundation